



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6103-99

29 October 1999

MA [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 23 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6103-99

IN REPLY REFER TO:
1610
MMER/PERB
SEP 23 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] SMC

Ref: (a) Major [REDACTED] DD Form 149 of 17 May 99
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 September 1999 to consider Major [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 970801 to 971120 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is substantially inaccurate and an unjust appraisal of his performance during the stated period. To support his appeal, the petitioner furnishes his own detailed statement concerning the events and circumstances that transpired during the reporting period. Inferred in his statement is an issue of an "illegal investigation", denial of an EEO investigation, and personality conflicts.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Notwithstanding the petitioner's statement appended to reference (a), there is absolutely no documentary evidence or proof that the report, or the Reviewing Officer's comments, reflect anything other than the fair, objective, and accurate professional opinions of the officers concerned. That the petitioner believes otherwise is unsupported speculation. We observe that the petitioner has furnished the identities of individuals who can verify his account of what transpired. However, it must be stressed that it is the petitioner's responsibility to obtain documentation to prove his case, and not the Board's to actively seek information to corroborate his allegations. To this end, the Board concludes that the petitioner has failed to establish the existence of either an error or an injustice.

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b. While [REDACTED] may have penned other, more laudatory Reviewing Officer comments on a previous fitness report, the Board is hasty to point out that he was not obliged to repeat his previous observations. Colonel [REDACTED] comments on the challenged report are obviously his assessment of this reporting period and are in no way inappropriate or contradictory with his prior evaluation.

c. The petitioner's claim that Lieutenant Colonel [REDACTED] Lieutenant Colonel [REDACTED] successor, prepared Colonel [REDACTED] Reviewing Officer comments is unfounded. The document at enclosure (2) to reference (a) contains no proof as to who authored the comments, since it bears no signature of the supposed author.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Maj [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps